

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

BALDWIN EVERETT HULL,)	
)	
Plaintiff,)	CIVIL ACTION FILE NO.:
)	
v.)	
)	
WELLS FARGO HOME MORTGAGE,)	AS REMOVED FROM THE
)	SUPERIOR COURT OF COBB
)	COUNTY, GEORGIA, CIVIL
Defendant.)	ACTION FILE NO.: 22108445

NOTICE OF REMOVAL

COMES NOW Wells Fargo Bank, N.A. (“Wells Fargo”)¹, Defendant in the above-captioned matter, which was originally filed in the Superior Court of Cobb County, Georgia, Civil Action File No. 22108445 (the “Superior Court Action”) and pursuant to 28 U.S.C. § 1441 and 1446, hereby removes the Superior Court Action to the United States District Court for the Northern District of Georgia, Atlanta Division. In accordance with the provisions of 28 U.S.C. § 1446(a), Wells Fargo respectfully shows this Court the following:

¹ Wells Fargo Bank, N.A. is the successor-by-merger to Wells Fargo Home Mortgage.

I. BACKGROUND.

1.

Plaintiff's Complaint relates to the real property located at 553 South Gordon Road, Mableton, Georgia 30165-5136 (the "Property"). [See Complaint].

2.

On or about July 14, 1995, Plaintiff obtained a loan in the amount of \$60,150.00 from Norwest Mortgage, Inc. Plaintiff conveyed the Property to Norwest Mortgage, Inc. pursuant to a Security Deed recorded at Book 8988, Page 397 of the Cobb County, Georgia records. See Security Deed, attached hereto as Exhibit "A".

3.

Wells Fargo Bank, N.A. is the successor-by-merger to Wells Fargo Home Mortgage, Inc. f/k/a Norwest Mortgage, Inc. On or about October 4, 2011, Wells Fargo assigned the Security Deed to Lehman Capital, a Division of Lehman Brothers Holdings, Inc. pursuant to a Corporate Assignment of Mortgage recorded at Book 14885, Page 2946 of the Cobb County, Georgia records. On or about February 6, 2020, the Security Deed was assigned back to Wells Fargo pursuant to a Corporate Assignment of Security Deed recorded at Book 15774, Page 1030 of

the Cobb County, Georgia records. *See* October 4, 2011 and February 6, 2020 Assignments, attached hereto as Exhibit “B”.

4.

On or about October 21, 2021, Wells Fargo executed a Cancellation of Security Deed which is recorded at Book 15989, Page 330 of the Cobb County, Georgia records. *See* Cancellation of Security Deed, attached hereto as Exhibit “C”.

5.

Plaintiff’s Complaint is a single page of allegations in the format of a letter. Plaintiff alleges that he is “filing this civil suit against Wells Fargo Home Mortgage due to the fact that their property managers burglarized My home on three different occasions. This started in 2011 and again in 2012 and the last time was in 2019.” *See* Complaint.

6.

Plaintiff’s Complaint states that he is “seeking one million five hundred thousand for harassment, theft as well stress and anxiety.” *See* Complaint.

7.

Plaintiff filed the Superior Court Action on or about December 5, 2022. Wells Fargo received a copy of the Complaint from a process server on May 18, 2023. Wells Fargo has not been served with a summons in the Superior Court Action. Plaintiff has not filed a return of service in the Superior Court Action. This Notice of Removal is being filed less than thirty (30) days after Plaintiff served Wells Fargo with a copy of the Complaint filed in the Superior Court Action.

8.

True and correct copies of all process, pleadings, and orders filed in the Superior Court Action are attached hereto as Exhibit “D”.

9.

Nothing in this Notice of Removal shall be interpreted as a waiver or relinquishment of any right of Wells Fargo to assert any defense in this action, including without limitation, defenses related to insufficiency of process and insufficiency of service of process.

II. REMOVAL.

10.

This case is being removed pursuant to the provisions of 28 U.S.C. §§ 1332, 1441, and 1446. Section 1332(a) provides for “original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000” exclusive of interest and costs and is between “citizens of different States” and cases meeting this criterion may be removed to district court pursuant to 28 U.S.C. §§ 1441 and 1446.

Diversity of Citizenship

11.

Upon information and belief, Plaintiff is a citizen of the State of Georgia.

12.

Wells Fargo is a national banking association with its main office located in the State of California. As a national banking association, Wells Fargo is a citizen for jurisdictional purposes of the states in which it is located. 28 U.S.C. § 1348. A national banking association is “located” in the state in which its main office is located. *Wachovia Bank v. Schmidt*, 546 U.S. 303, 307 (2006). Applying the *Schmidt* rule, Wells Fargo is a citizen of the State of California for jurisdictional purposes because its main office is located in California.

13.

As Plaintiff and Wells Fargo are citizens of different states, there is complete diversity of citizenship between the parties as is required by 28 U.S.C. § 1332(a)(1).

Amount in Controversy

14.

Plaintiff's Complaint states that Plaintiff desires to recover \$1,500,000 from Wells Fargo "for harassment, theft as well stress and anxiety [sic]." [*See* Complaint].

15.

Because diversity of citizenship exists between the parties and the amount in controversy is in excess of \$75,000, exclusive of interest and costs, this Court has original subject matter jurisdiction over the Superior Court Action pursuant to 28 U.S.C. § 1332, and the action is removable to this Court pursuant to 28 U.S.C. §§ 1441(a) & (b).

Statement of Removal

16.

This Notice of Removal has been filed within thirty (30) days of the filing of the Complaint in the Superior Court Action. Accordingly, removal is timely under 28 U.S.C. § 1446.

17.

Contemporaneously with the filing of this Notice of Removal, Wells Fargo served written notices on Plaintiff and the Clerk of the Superior Court of Cobb County, Georgia, as required by 28 U.S.C. § 1446(d).

WHEREFORE Wells Fargo respectfully requests that the Superior Court Action be removed, pursuant to 28 U.S.C. § 1441(a) and (b), from the Superior Court of Cobb County, Georgia, to the United States District Court for the Northern District of Georgia, Atlanta Division, on the basis of this Notice of Removal, and that this Court take jurisdiction of this action for the determination of all issues, trial, and judgment, to the exclusion of any further proceedings in the Superior Court of Cobb County, Georgia.

Respectfully submitted this 16th day of June, 2023.

WOMBLE BOND DICKINSON (US) LLP

By: /s/ Arthur A. Ebbs
Arthur A. Ebbs
State Bar No. 416181

271 17th Street NW
Suite 2400
Atlanta, Georgia 30363
Telephone: (404) 872-7000
Facsimile: (404) 888-7490
Email: Arthur.Ebbs@wbd-us.com

Attorneys for Wells Fargo Bank, N.A.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within and foregoing *Notice of Removal* was electronically filed with the Clerk of Court using the CM/ECF system and has been served on the following via U.S. Mail as follows:

Baldwin Everett Hull
553 South Gordon Road
Mableton, Georgia 30126-5136

This 16th day of June, 2023.

/s/ Arthur A. Ebbs

Arthur A. Ebbs

State Bar No. 416181